

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**June 21, 2005**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF TENNESSEE WASTEWATER</b>	)	<b>DOCKET NO. 04-00395</b>
<b>SYSTEMS, INC. TO AMEND ITS CERTIFICATE OF</b>	)	
<b>CONVENIENCE AND NECESSITY</b>	)	
	)	

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**ORDER APPROVING PETITION TO AMEND  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

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This matter came before Director Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a Hearing held on February 28, 2005 to consider the *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority expand its service area to include a portion of Blount County, Tennessee known as the Wyndsong Subdivision.

**Legal Standard for Granting Certificate of Public Convenience and Necessity**

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Authority. The procedure for obtaining a CCN evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator

thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate. . . .

### **Background**

On April 6, 1994, Tennessee Wastewater Systems, Inc.<sup>1</sup> (“TWS” or “Company”) received a Certificate of Convenience and Necessity (“CCN”) in Docket No. 93-09040 from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee. The Company’s principal office is located in Nashville, Tennessee.

### **The Petition**

On November 5, 2004, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Blount County, Tennessee known as the Wyndsong Subdivision. TWS attached several letters to its *Petition* in support of its request to expand its service area. First, TWS attached a letter from the owner/developer of the property requesting that TWS provide service to the property.<sup>2</sup> Second, TWS attached letters from each of three other potential wastewater service providers stating that each does not provide service to the area.<sup>3</sup> TWS filed the *Pre-filed Direct Testimony Of Charles Pickney, Jr.* on February 14, 2005.

### **Rate Schedules**

The Company also attached rate schedules listing the Company’s commercial sewer rates

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<sup>1</sup> Tennessee Wastewater Systems, Inc. was formerly known as On-Site Systems, Inc. This name change was effected by the TRA’s order of February 19, 2004, in Docket No. 03-00518

<sup>2</sup> See *Petition* (unnumbered attachment) (November 5, 2004): Letter from Richard Ensminger, LSTH, L L C to Michael Hines, Tennessee Wastewater Systems, Inc. (August 29, 2004)

<sup>3</sup> See *Petition* (unnumbered attachments) (November 5, 2004) Letter from J. Isom Lail, District Manager, South Blount County Utility District (stating that the Utility District does not provide sewer service) (August 24, 2004), Letter from Beverly D. Woodruff, Blount County Mayor to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc. (stating that Blount County has no plan to provide service to the area within the next twelve months) (February 13, 2004), Letter from Jeffrey A. Rose, Director of Water Quality Control, City of Maryville to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc. (September 15, 2004)

(with and without food service), a billing summary of the Company's residential sewer rates, a listing of the Company's sewer systems with commercial customers and a service area map showing the proposed location of the Wyndsong Subdivision.<sup>4</sup>

The monthly residential rate will be thirty-five dollars and eleven cents (\$35.11). Other residential fees include a five percent (5%) fee for non-payment, a disconnection fee of ten dollars (\$10.00), a reconnection fee of fifteen dollars (\$15.00), a returned check fee of twenty dollars (\$20.00) and an annual access fee of eighty-four dollars (\$84.00).

The monthly commercial rate, *without food service*, will be based on the design flow expected from the type of establishment being served. A minimum of seventy-five dollars (\$75.00) per month will be charged for the first 300 gallons per day design flow expected (except off-site<sup>5</sup> will have a seventy-three dollar (\$73.00) minimum plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of fifteen dollars (\$15.00) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$140.00	\$165.00	N/A
Lagoon	\$116.00	\$140.00	N/A
Off Site	N/A	N/A	Pass-Through Costs + \$73.00

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be one hundred sixteen dollars (\$116.00) per 1,000 gallons of daily flow. Additional surcharges will apply when expected design flows are exceeded. For any month that a customer's water

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<sup>4</sup> *Petition*, (unnumbered attachments) (November 5, 2004)

<sup>5</sup> Off site means the treatment and disposal is performed by another entity

meter reading exceeds the expected design flow, the following surcharges will apply:

<u>Excess water usage</u>	<u>Surcharge</u>
1 gallon to 1,000 gallons above expected design flow	\$175.00
1,001 gallons to 2,000 gallons above expected design flow	\$200.00
Over 2,000 gallons above expected design flow	\$200.00/1000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

The monthly commercial rate, *with food service*, will be based on the design flow expected from the type of establishment being served. A minimum of one hundred dollars (\$100.00) per month will be charged for the first 300 gallons per day design flow expected (except off-site will have a ninety-four dollar (\$94.00) minimum plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of eighteen dollars (\$18.00) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$170.00	\$192.00	N/A
Lagoon	\$142.00	\$163.00	N/A
Off Site	N/A	N/A	Pass-Through Costs + \$94.00

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be one hundred forty-two dollars (\$142.00) per 1,000 gallons of daily flow. Additional surcharges will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply:

Excess water usage

Surcharge

1 gallon to 1,000 gallons above expected design flow	\$210.00
1,001 gallons to 2,000 gallons above expected design flow	\$220.00
Over 2,000 gallons above expected design flow	\$220.00/1000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

Other commercial fees include a five percent (5%) fee for non-payment, a disconnection fee of ten dollars (\$10.00), a reconnection fee of fifteen dollars (\$15.00), a returned check fee of twenty dollars (\$20.00).

**The February 28, 2005 Hearing**

Pursuant to Tenn. Code Ann. § 65-4-201(a) public notice of the Hearing in this matter was issued by the Hearing Officer on February 1, 2005. No person sought intervention prior to or during the Hearing. At the Hearing held on February 28, 2005, Mr. Charles Pickney, Jr., President of TWS, participated, presented testimony and was subject to examination by the Panel. Mr. Pickney testified that the company has the managerial, technical and financial ability to provide wastewater services to the Wyndsong Subdivision.<sup>6</sup> At the time of the Hearing Mr. Pickney had not yet received a final approved permit from the Tennessee Department of Environment and Conservation for the system.<sup>7</sup>

Upon the presentation of the Company's proof, the evidentiary record as a whole and in light of the legal standard set forth in Tenn. Code Ann. § 65-4-201(a), Director Deborah Taylor

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<sup>6</sup> Transcript of Authority Conference, p 70 (February 28, 2005)

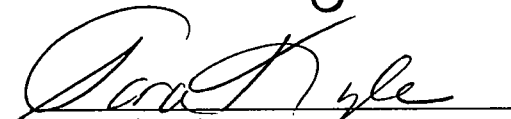
<sup>7</sup> *Id.* at 71

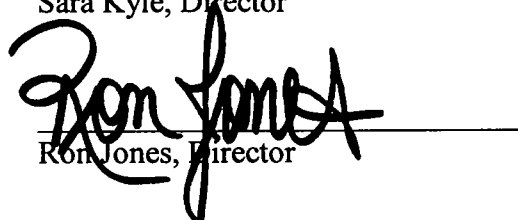
Tate, Director Sara Kyle, and Director Ron Jones voted unanimously to grant provisional approval of the *Petition* subject to receipt of a final approved permit from the Tennessee Department of Environment and Conservation evidencing its approval of the Company's application to provide service to the Wyndsong Subdivision.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include the Wyndsong Subdivision in Blount County, Tennessee, as shown in the map attached to the *Petition* is provisionally approved subject to receipt of a final approved permit from the Tennessee Department of Environment and Conservation.
2. The Petitioner's rates for wastewater service shall be as listed in the rate schedules filed with the *Petition* and as set forth in this Order.
3. The provisional approvals granted herein shall become final upon the filing in this Docket of a copy of the final approved permit evidencing the Tennessee Department of Environment and Conservation's approval of Tennessee Wastewater Systems, Inc.'s application to provide service to the Wyndsong Subdivision.

  
Deborah Taylor Tate, Director

  
Sara Kyle, Director

  
Ron Jones, Director